

B104 (Rev. 8/87)	<b>ADVERSARY PROCEEDING</b> <b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)	<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)
<b>PLAINTIFFS</b> <b>Steele, John Lindsay Jr.</b> <b>Steele, Kimberly Reid</b> <b>225 Cedar St</b> <b>Belmont, NC 28012-3003</b>		<b>DEFENDANTS</b> <b>GMAC Mortgage Corp.</b> <b>PO Box 780</b> <b>Waterloo, IA 50704-0780</b>
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.) <b>Geoffrey A. Planer</b> <b>Attorney At Law</b> <b>Post Office Box 1596</b> <b>Gastonia, NC 28053-1596</b>		<b>ATTORNEYS</b> (If Known)
<b>PARTY</b> (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT <input checked="" type="checkbox"/> 3 U.S. NOT A PARTY		
<b>CAUSE OF ACTION</b> (Write a brief statement of cause of action, including all U.S. Statutes involved) <b>Complaint stripping lien of GMAC Mortgage Corp. pursuant to Bankruptcy Rule 700(2)</b>		
<b>NATURE OF SUIT</b> (Check the one most appropriate box only)		
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> 454 To Recover Money or Property         </div> <div style="width: 33%;"> <input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11 or Chap. 13 Plan         </div> <div style="width: 33%;"> <input type="checkbox"/> 456 To obtain a declaratory judgement relating to any of foregoing causes of action         </div> <div style="width: 33%;"> <input checked="" type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest In Property         </div> <div style="width: 33%;"> <input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523         </div> <div style="width: 33%;"> <input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court         </div> <div style="width: 33%;"> <input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property         </div> <div style="width: 33%;"> <input type="checkbox"/> 434 To obtain an injunction or other equitable relief.         </div> <div style="width: 33%;"> <input type="checkbox"/> 498 Other (Specify)         </div> <div style="width: 33%;"> <input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. § 727         </div> <div style="width: 33%;"> <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan.         </div> </div>		
<b>ORIGIN OF PROCEEDINGS</b> (Check one box only)		<input checked="" type="checkbox"/> 1. Original Proceeding <input type="checkbox"/> 2. Removed Proceeding <input type="checkbox"/> 4. Reinstated or Reopened <input type="checkbox"/> 5. Transferred from Another Bankruptcy
		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
<b>DEMAND</b>	NEAREST THOUSAND \$	OTHER RELIEF SOUGHT <input type="checkbox"/> JURY DEMAND
<b>BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES</b>		
<b>NAME OF DEBTOR</b> <b>Steele, John Lindsay Jr.</b>		<b>BANKRUPTCY CASE NO.</b> <b>04-34141</b>
<b>DISTRICT IN WHICH CASE IS PENDING</b> <b>Western District of North Carolina</b>	<b>DIVISIONAL OFFICE</b> <b>Charlotte</b>	<b>NAME OF JUDGE</b> <b>Hodges</b>
<b>RELATED ADVERSARY PROCEEDING (IF ANY)</b>		
<b>PLAINTIFF</b>	<b>DEFENDANT</b>	<b>ADVERSARY PROCEEDING NO.</b>
<b>DISTRICT</b>	<b>DIVISIONAL OFFICE</b>	<b>NAME OF JUDGE</b>
<b>FILING FEE</b> (Check one box only) <input checked="" type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED		
<b>DATE</b> <b>11/20/2004</b>	<b>PRINT NAME</b> <b>Geoffrey A. Planer</b>	<b>SIGNATURE OF ATTORNEY(OR PLAINTIFF)</b> <b>/s/ Geoffrey A. Planer</b>

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

In Re:	)	
John Lindsay Steele	)	<b>ADVERSARY COMPLAINT</b>
Kimberly Reid Steele	)	
	)	
Debtors	)	Case No. 04-34141
	)	(Chapter 13)
John Lindsay Steele	)	
Kimberly Reid Steele	)	
	)	
Plaintiffs	)	Adv. Proc. No. _____
	)	
GMAC Mortgage Corp.	)	
	)	
Defendant	)	

Plaintiff complaining of the Defendant, alleges and says:

1. This Adversary Proceeding is a core proceeding as contemplated by U.S.C. 157(b)(2)(B) and is brought pursuant to Bankruptcy Rule 700(2) to determine the validity, priority or extent of a lien or other interest in property of the debtor.
2. Debtors filed an original petition and plan under Chapter 13 of Title 11 of the U.S. Code on November 17, 2004.
3. In their schedules filed contemporaneously with their voluntary petition, Debtors disclosed the ownership of certain realty used by them as their residence, a house and lot located at 225 Cedar Street, Belmont, NC 28012; further, Debtors listed two outstanding mortgages on such property; to wit: Select Portfolio Servicing; and GMAC Mortgage Corp..
4. At the date of filing of the petition herein, the outstanding indebtedness owed the first mortgage held by Select Portfolio Servicing was eighty six thousand dollars and 00/100 (\$86,000.00), the outstanding balance on the second mortgage held by GMAC Mortgage Corp. was twelve thousand seven hundred forty dollars and 00/00 (\$12,740.00).
5. At the time of filing their original petition and plan herein, April 2, 2004, the fair market value of Debtors' real estate was sixty eight thousand six hundred ten dollars and 00/100 (\$68,610.00)
6. Although Defendant has a purported second mortgage on Debtors' residence and have, upon information and belief, a recorded Deed of Trust with respect thereto, there is no value in the subject real estate in excess of the balance owed on the first mortgage mentioned above; therefore, the claim of Defendant, GMAC Mortgage Corp. has been scheduled by Debtors as an unsecured claim, there being no value to support the Defendant's lien.
7. Debtors filed this Adversary Proceeding for the purposes of stripping the lien held by GMAC Mortgage Corp. evidenced by its second mortgage on the subject real estate of the Debtors.
8. Debtors are informed, believe and so allege that it would be in the best interest of justice and these parties, the Chapter 13 estate and the creditors thereof that this Court order that the second mortgage lien of GMAC Mortgage Corp. be marked paid and satisfied in full upon completion of Debtors' plan and receipt by Debtors of their discharge herein.

**WHEREFORE, Debtor prays the Court as follows:**

1. That this Court enter an Order that as of the date of Debtors' petition, there existed no value in Debtors' residential real estate in excess of the balance then owed on the first mortgage thereon; and
2. That this Court enter an Order that Defendant's second mortgage claim be treated in Debtors' Plan as an unsecured claim; and
3. That this Court Order Defendant to mark its mortgage instrument "paid and satisfied" and forward the same to Debtors for recordation at the Gaston County Registry upon completion by Debtors of their plan.
4. And for such other and further relief as to the Court may deem just and proper.

This the 20th day of November, 2004.

By: \_\_\_\_\_

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